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1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11 AMY SCHMIDT, AGA on behalf of government

12 RON WOODSON, on behalf of Barcode

13

14 OTHER PERSONS PRESENT

15 ARMAND ARMISHAHI

16 YOMEDO WILLIFORD

17

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1 P R O C E E D I N G S

2 [11:20 a.m.]

3 CHAIRPERSON ANDERSON: Good morning. The
4 Board has before it today a Summary Suspension
5 Hearing involving Barcode, a Retailer CT class
6 located at 1101 17th Street Northwest. This is
7 Case #16-251-00010.

8 On Sunday, January 31, 2016, at
9 approximately 11:30 p.m. A serious altercation
10 occurred outside the establishment that resulted
11 in a fatal stabbing of one person, producing
12 serious injuries to another. Numerous MPD
13 officers from two districts were required to
14 control the crowd, secure the crime scene and
15 locate witnesses. Two knives were recovered near
16 the altercation.

17 As a result of the incident, the Chief of
18 Police, Captain Lanier, closed the establishment
19 pursuant to her authority under D. C. Code
20 Section 25-827. Chief Lanier submitted a letter
21 to Alcoholic Beverage Control Board dated
22 February 1, 2016, seeking revocation of the

1 establishment's ABC license.

2 The Board voted 5 to nothing on February
3 3, 2016, to summarily suspend the establishment's
4 license. The respondent requested a hearing on
5 February 4, 2016, under D. C. Code Official
6 Section 258-26 c.

7 Today the Board will be hearing testimony
8 from the Office of the Attorney General, the
9 Respondent and their respective witnesses. The
10 purpose of the hearing is so the Board can
11 determine under D.C. Official Code Section 25-826
12 whether the operations of the respondent present
13 an imminent danger to the health and safety of
14 the public. The Board will also be announcing
15 its decision at the conclusion of today's
16 hearing.

17 The Board asks that the parties stick to
18 the facts and the issues related to the incident.
19 The facts and issues are those contained in the
20 Summary Suspension Notice dated February 4, 2016,
21 and the case court investigation #16-251-00010,
22 dated February 3, 2016. The Board is only

1 interested in hearing about these matters that
2 can be used to establish whether the
3 establishment is an imminent danger to the health
4 and safety of the public.

5 The Board will begin this case by hearing
6 the opening statement from the government
7 represented by Assistant Attorney General, Amy
8 Schmidt, followed by the opening statement of Rod
9 Woodson, Counsel for Respondent.

10 CHAIRPERSON ANDERSON: Good morning
11 everyone, and I know that this [inaudible 3:18]
12 for me, but let me -- today is February 11, 2016.
13 We're here, again, for the Summary Suspension
14 Hearing. Let me introduce the Board members that
15 are here. We have Ms. Ruthanne Miller to my
16 immediate left, Mr. Alberti is next to me, we
17 have Mr. Mike Silverstein and we have Mr. James
18 Short, and I am Donovan Anderson, I'm the Chair
19 of the Board. There are five members present
20 here today so we do have a quorum to do business
21 today.

22 All right. One thing that I'd like you

1 to do is please turn off any electronic devices
2 that you do have so we will not have any
3 interruption during the proceedings.

4 Secondly, there is a piece of paper in
5 front of you that I would also like you to sign
6 your name -- once -- sign your name so we will
7 have that.

8 Now, where we're going to start on this
9 case, the first thing I will ask is that -- can
10 you please identify yourself for the record,
11 please.

12 MS. SCHMIDT: Good morning, Amy Schmidt,
13 Assistant Attorney General on behalf of the
14 District of Columbia.

15 MR. WOODSON: Good morning, Chairman
16 Anderson and members of the Board. I am Robert
17 Woodson and together with my colleague and
18 partner, Yomedo Williford, and colleague Jessica
19 Farmer, we are Counsel to Barcode and members of
20 the law firm of Holland and Knight. Mr. Chair I
21 would just like to note for the record -- note
22 for this proceeding -- that Ms. Williford, to my

1 right, will be leading the presentation of facts
2 and argument for Barcode.

3 CHAIRPERSON ANDERSON: Thank you.

4 MR. SILVERSTEIN: Mr. Woodson, there's
5 another individual at your table. Would you
6 introduce?

7 MR. WOODSON: I would be happy to do
8 that.

9 CHAIRPERSON ANDERSON: I was gonna --

10 MR. WOODSON: My oversight, Mr.
11 Silverstein. At the table with us is Mr. Armand
12 Amirshahi, principle and manager of Barcode.

13 CHAIRPERSON ANDERSON: Thank you very
14 much. And prior to starting the proceedings are
15 there any preliminary matters that you would like
16 to address?

17 MS. SCHMIDT: Yes, there is an offer in
18 compromise which has been entered into by the
19 parties and we'd like to present it to the Board.
20 And this offer in compromise --

21 CHAIRPERSON ANDERSON: Hold on just one
22 minute, please. Yes, go ahead.

1 MS. SCHMIDT: Okay, this offer in
2 compromise consists of the following terms:

3 1) Barcode Corporation, trading as
4 Barcode respondent shall submit a revised
5 security plan to ABRA and OAG by no later than
6 5:00 p.m. On Thursday, February 11, 2016. The
7 revised security plan shall be reviewed and
8 accepted by the Board prior to the reopening of
9 the establishment. The security plan shall be in
10 full compliance with all applicable laws and
11 regulations including all requirements for a
12 security plan under Title 25 of the D. C.
13 Official Code and which incorporates all the
14 matters set forth below. Security plan will also
15 address additional conditions not set forth in
16 Title 25, which are also described below.

17 2) The respondent shall be responsible
18 for designating an individual during its hours of
19 operation, which is the owner, that is
20 responsible for assisting MPD with its
21 investigation. The establishment shall indicate
22 the individuals responsible for assisting in

1 keeping with its investigation during all hours
2 of operation.

3 3) The respondent shall document and
4 submit to the Board the name and employment
5 status of all security personnel by no later than
6 5:00 p.m. on Thursday, February 11, 2016. The
7 respondent shall document and submit to the Board
8 by no later than 5:00 p.m. on Thursday, February
9 11, the number of security personnel that will
10 wear identifiable clothing with the word
11 "security" during establishment hours of
12 operation as well as the names of security
13 personnel that will wear identical clothing with
14 the word "security."

15 4) The revised security plan shall detail
16 the minimum number of security personnel that
17 will be on duty each day when there is a
18 promotion and specific duty hours. Security is
19 to find a promoter to meet an outside promoter
20 who provides entertainment or music. The
21 procedures in the security plan and this offer in
22 compromise for outside promoters does not apply

1 to private office parties.

2 5) The respondent shall utilize a
3 minimum of two MPD Individual Detail Officers on
4 Sunday nights and any other night it uses a
5 promoter to provide entertainment from 11:30 p.m.
6 until half an hour after closing time.

7 6) The revised security plan shall
8 contain detailed procedures on how the
9 respondents security personnel must handle
10 violent altercations in the establishment using
11 appropriate methods for separating and handling
12 victims and aggressors, detaining and controlling
13 aggressive patrons, and handing victims and
14 aggressive patrons over to MPD RDO.

15 7) The respondent shall report violent
16 aggressors to the MPD Reversible Detail officers
17 or officers customarily posted immediately in
18 front of the establishment when such detail is
19 utilized.

20 8) The respondent shall not clean up a
21 crime scene under any circumstances, nor
22 authorize anyone to clean up the crime scene

1 without prior consent of MPD. The revised
2 security plan shall address the establishment
3 procedure for preserving a crime scene.

4 9) The revised security plan shall
5 indicate that the respondent shall be responsible
6 for turning on its lights and turning off the
7 music within one minute of a violent incident
8 occurring. The revised security plan shall
9 detail the establishment's procedures for
10 ensuring that the lights are turned on and music
11 is turned off within the one minute requirement.

12 10) The respondent shall maintain an
13 incident log reporting all violent incidents that
14 occur inside and in front of the establishment.
15 The licensee security plan shall address the
16 proper protocol for drafting and maintaining
17 incident log entries to include the names and
18 contact information of any victims and witnesses
19 to an incident. The respondent shall make the
20 incident log available to MPD and ABRA
21 investigators upon request.

22 11) The respondent shall utilize barring

1 notices to prevent the return or reentry of
2 violent or aggressive patrons. The respondent is
3 required to keep special documents for
4 respondent's procedures for getting a barring
5 notice issued. All patrons entering the
6 establishment on Sundays after 4:00 p.m. or on
7 other days when an outside promoter is utilized
8 shall be wanded and patted down.

9 13) The revised security plan shall
10 indicate the hours and days, as well as the
11 circumstances, such as an outside promoter, when
12 the establishment will utilize wands on all
13 patrons prior to the patrons entering the
14 establishment. The purpose of wanding will be
15 for the detection of metal objects including
16 weapons that may be carried by patrons. The
17 wands will be used on every patron who enters the
18 establishment and will be used in conjunction
19 with physical pat-down searches to be specified
20 in the respondent's security plan.

21 14) Revised security plan shall state
22 that cameras utilized by the establishment will

1 be operational. The security plan shall also
2 state that any footage of a crime of violence or
3 a crime involving a weapon be maintained for 30
4 days and that any security footage will be made
5 available within 48 hours upon request from ABRA
6 or MPD.

7 15) The revised security plan shall set
8 forth what disciplinary actions will apply for
9 any security personnel who does not comply with
10 the security plan.

11 16) The respondents should utilize a
12 counting clicker on Sundays or other days when
13 promotions are held to track the number of
14 patrons inside the establishment. Under no
15 circumstances shall the number of patrons inside
16 the establishment exceed the respondent's
17 approved certificate of occupancy.

18 17) All personnel shall be trained on the
19 terms of the revised agreement prior to opening
20 of the establishment.

21 18) The summary suspension proceeding
22 will be set for 40 days after which the

1 proceeding will reconvene to allow the Board to
2 determine if Barcode has complied with the terms
3 of the updated security plan.

4 CHAIRPERSON ANDERSON: That's a mouthful.
5 I guess I'm supposed to review, read this into
6 the record to ask the licensee if he is -- this
7 is the security plan -- I'm sorry -- the offer in
8 compromise that he has accepted and so I will
9 review those records. Ms. -- what?

10 MS. WILLIFORD: Williford?

11 CHAIRPERSON ANDERSON: Ms. Williford.

12 MS. WILLIFORD: Yeah.

13 CHAIRPERSON ANDERSON: Does your -- do
14 you have a copy -- a written copy of the offer in
15 compromise?

16 MS. WILLIFORD: Yes we do and I was
17 reading along with what was read in the record,
18 and Barcode does agree to the terms of -- that
19 were set and we've actually also have prepared an
20 updated security plan that complies with the
21 terms in this compromise.

22 CHAIRPERSON ANDERSON: And does your

1 client -- is this your understanding or have you
2 had an opportunity to review this, sir?

3 MR. AMISHAHRI: Yes.

4 CHAIRPERSON ANDERSON: And do you -- are
5 you aware that by accepting an offer in
6 compromise that you're giving up your right to a
7 hearing?

8 MR. AMISHAHRI: Yes, I do.

9 CHAIRPERSON ANDERSON: And you also know
10 -- are you also aware that by accepting the offer
11 in compromise that you're also giving up your
12 right to an appeal?

13 MR. AMISHAHRI: Yes.

14 CHAIRPERSON ANDERSON: Okay. Now, do any
15 Board members have any questions or concerns
16 regarding this offer in compromise? Yes, Ms.
17 Miller.

18 MS. MILLER: Okay, yeah, I have a few.
19 Starting generally, I am assuming, and I ask you
20 to confirm it, you're offering this offer in
21 compromise to address the problems that may have
22 resulted in the homicide at the establishment so

1 that it doesn't -- something like this,
2 hopefully, would not happen again. Is this offer
3 in compromise supposed to address underlying
4 problems, weaknesses, that, if corrected, would
5 make it less likely that something like that
6 would happen.

7 MS. WILLIFORD: That is the goal.

8 MS. MILLER: Okay.

9 MS. WILLIFORD: There are some things
10 that are out of Barcode's control, but yes, this
11 is the goal with this document, yes.

12 MS. MILLER: Okay, so my general
13 question, then -- one of my general questions is
14 because we have the police report, the closure
15 letters, the investigator's report, and at this
16 point I think they are at least a few days old so
17 they didn't answer for me certain questions as
18 to, for instance, do we know the cause of the
19 homicide? Do we know whether it was targeted
20 versus something in the heat of emotion?

21 MS. WILLIFORD: I think -- we don't know
22 and it's part of an active investigation by MPD,

1 so I'm not sure.

2 MS. MILLER: Okay, so this won't
3 necessarily always address one or the other
4 circumstances, to versus emotional.

5 MS. SCHMIDT: Well --

6 MS. WILLIFORD: Emotion cannot, as the
7 Board knows, sometimes -- sometimes emotional is
8 very hard -- it just happens to happen in a bar
9 sometimes, but the government is -- the
10 government -- the government is hopeful that
11 these -- they'll tighten up their procedures,
12 especially with the wandering after 4:00.

13 I think the concern was is the fact that
14 Barcode serves a brunch between 12:00 and 5:00
15 and a lot of -- and according to ABRA
16 investigators and the police, a lot of times what
17 would happen is that people would come in before
18 -- for the activity at 4:00 to try to avoid a
19 cover charge and they weren't being wanded at the
20 time so that is why we're trying to delineate --
21 we're trying to delineate the two times without
22 causing the restaurant harm, too, because it's

1 very hard to tell people [inaudible 14:50] "why
2 don't you leave now so we can wand you?" so,
3 we're trying to work with the establishment also.

4 MS. MILLER: Okay, so, I mean for
5 instance, let's forget the motive. If you're
6 talking about, you know, the wandering or whatever,
7 in this case, I mean there's been the question,
8 and I don't want to get into the evidence, but
9 how -- is it -- what -- what does this do to
10 prevent a knife getting through?

11 MS. WILLIFORD: I guess we're at a point
12 where it's very hard to guarantee 100% that
13 nothing can get through, that someone can assault
14 someone. I mean, there are things that happen
15 every day, so it's really trying to just make
16 sure the Barcode revisits its procedures and that
17 the MPD overtime detail that's in there is
18 looking to address that as a potential deterrent
19 for people who may have an ulterior motive to go
20 in, but really trying to understand if someone
21 comes in and said what their intentions are,
22 that's something that really Barcode or no

1 restaurant can really control but what we can do
2 is potentially set up deterrents for someone who
3 that may impact, that you can actually do that.
4 That's where the wandering comes in and that's
5 where the MPD overtime detail comes in.

6 MS. MILLER: But you did wandering before,
7 right? This just increases the time when you do
8 the wandering.

9 MS. WILLIFORD: It does. And I want to
10 clarify, that night was it a pat down -- pat down
11 procedures?

12 MR. WOODSON: The pat down procedures --

13 MS. MILLER: Okay.

14 MR. WOODSON: The pat down procedures and
15 we have had overtime detail as well.

16 MS. MILLER: You didn't have wandering that
17 night.

18 MR. WOODSON: There was not wandering
19 before.

20 MS. MILLER: So, that's a difference.

21 MS. SCHMIDT: Correct.

22 MS. MILLER: Okay.

1 MR. SILVERSTEIN: Could you repeat that
2 last part? I didn't catch it.

3 MR. WOODSON: We had reimbursable detail
4 as well, but we had pat down, and now we're
5 adding an extra layer to be able to wand as well.

6 MR. SILVERSTEIN: So you --

7 CHAIRPERSON ANDERSON: Mr. Silverstein,
8 I'm going to get to you, so.

9 MR. SILVERSTEIN: No, I wanted to hear
10 what they said.

11 CHAIRPERSON ANDERSON: No, I know, I'm
12 just, yeah I know you're asking for
13 clarification, so that's fine, but Ms. Miller has
14 to ask questions and I'll get to you, so.

15 MS. MILLER: I have a question about the
16 promoters, the role of the promoters. I think
17 that certainly one of the -- one of the issues
18 that came out was, you know, who was in charge
19 when something went wrong? And it really wasn't
20 clear to me what the responsibility was of the
21 promoters or what's -- do you change that at all?
22 Any kind of --

1 MS. WILLIFORD: In an incident like this
2 Armand, who is one of the owners, was there the
3 entire time and he was there responding making
4 sure that the MPD detail were able to get to the
5 individual that was there, making sure that the
6 lights were turned on, making sure that things
7 were actually handled. So, the owner was
8 actually off duty and was taking responsibility
9 for that regardless of what the promoter had, so.

10 MS. MILLER: So, okay, well one of my
11 concerns is I can't tell, well I don't know, we
12 don't have a security plan yet to review. But
13 how, you know -- what's the role of promoters in
14 this kind of thing, because it seemed to me even
15 though the owner was there, and I only had
16 limited information, that MPD didn't know who was
17 in charge and there was not -- but that was after
18 the fact, but still there wasn't a smooth
19 operation there, and I'm hoping that you're
20 addressing that in the security plan, especially
21 when you have a promoter there.

22 MS. WILLIFORD: Oh yeah. In the offer in

1 compromise there is a reference to identify the
2 person who, in addition to the owner, will be
3 responsible for taking -- for being the interface
4 with MPD. So that is addressed within the offer
5 in compromise.

6 MS. MILLER: So, is that somebody
7 separate from a promoter? You're going to have a
8 promoter, you're going to have an owner, and
9 you're going to have somebody else in charge of
10 dealing with MPD?

11 MS. WILLIFORD: I think to address your
12 concern about who is in charge or responsible for
13 interfacing with the MPD. Like, the owner was
14 there, but here I think the concern was is there
15 someone else? So, the idea is we would identify
16 someone else and it would be someone within
17 Barcode, as opposed to a promoter, because that's
18 something that can control.

19 MS. MILLER: So, okay, I don't really
20 mean just in charge of dealing with MPD, I mean
21 it seems to me if anything goes wrong, if you had
22 a bomb scare, if you had anything, is the head of

1 security in charge? Is the owner in charge?
2 Who's in charge? I mean, I think that that was
3 what I was drawing from the reports and maybe
4 there is a lot more there than what was in the
5 report, but that's the concern that it raised,
6 that there's not somebody in charge.

7 MS. WILLIFORD: Yeah, and I heard you say
8 you did not see the updated security plan but
9 within there it addresses that piece and it does
10 reference, I believe it's the head of security
11 who would be, or the manager who would be the
12 point person in addition to the owner so that was
13 addressed.

14 MS. MILLER: Okay, good. Okay, looking
15 at the offer in compromise specifically in number
16 two, you talk about, again, someone who is
17 responsible for assisting MPD with its
18 investigation. I'm not sure what you mean. Is
19 that after there's been an incident, somebody's
20 in charge of assisting MPD with the investigation
21 and that's their sole -- that's what you're
22 talking about solely?

1 MS. WILLIFORD: Barcode has a policy of
2 always cooperating with the MPD whenever there's
3 something that's going on. I think this was
4 language that the OAG wanted within here that we
5 agree to and this is something that we feel is
6 important and is doing regardless. This wasn't
7 meant to be limiting in any way --

8 MS. MILLER: Okay.

9 MS. WILLIFORD: -- just something
10 specific that OAG wanted --

11 MS. MILLER: Okay, so --

12 MS. SCHMIDT: If I may -- if I may -- if
13 I may --

14 CHAIRPERSON ANDERSON: Hold on Ms.
15 Miller. Go on.

16 MS. SCHMIDT: In this case, for example,
17 the owner was assisting the MPD with the cameras,
18 so they needed -- in other words, he was helping
19 with the cameras as a first -- so they needed, so
20 that's why we're designating a second person so
21 the owner is free to deal with the cameras and in
22 an incident like this oftentimes you need more

1 than one person, so that's why, that was the
2 purpose of this provision, so the owner doesn't
3 have to be six places at once, that the important
4 thing is MPD is assisted and I think that Barcode
5 is aware of the fact that they need to designate
6 someone else, so when the police officer comes in
7 and says, "who's in charge here?" they don't all
8 run for the owner, there's someone else who could
9 help.

10 MS. MILLER: Okay, that's good. So, when
11 we look at the security plan we'll see other
12 responsibilities, correct? Okay. In number 3,
13 you talk about providing names of security
14 personnel by 5:00 p.m. today. Do you have a
15 provision anywhere or a plan to update when there
16 are changes to the security personnel? Or do you
17 think that's not necessary or, why just --

18 MS. SCHMIDT: I think it's just a matter
19 of who's on -- I think it's a matter just so that
20 the Board will know right now that these people
21 are trained. Of course -- it's -- it would be --
22 it would be - it's a matter of just making sure

1 that the people who are there today are trained
2 in order to reopen. What happens in the future
3 is another -- is another story, but right now, in
4 order to reopen we want, I think the Board just
5 wants assurances that these people are trained
6 and that's why --

7 MS. MILLER: Okay, I'll just say from
8 past experience, and the Board will talk about
9 it, but we're usually concerned about the future
10 just as well when new personnel come on, what
11 their training is.

12 MS. WILLIFORD: Regarding your concern
13 about the future, there is a provision that
14 there's an offer in compromise that's also within
15 the security plan that all personnel be trained
16 in connection with the plan. So, that's a
17 safeguard that may satisfy your concerns.

18 MS. MILLER: Okay, good. How often do
19 you have -- or do you use promoters?

20 MR. AMIRSHAHI: The promoters usually,
21 right now it's Wednesdays, Saturdays and Sundays.

22 MS. MILLER: And do you draw from

1 specific promoters, do you have specific ones you
2 use or do you --

3 MR. AMIRSHAHI: We have specific ones.
4 We've been having the same promoters for over six
5 years.

6 MS. MILLER: Same promoters. How many do
7 you use? I mean, like do you use the same six or
8 the same --

9 MR. AMIRSHAHI: The same people that
10 we've had, we've had since we opened.

11 MS. MILLER: No, I understand that. How
12 many different promoters do you actually work
13 with?

14 MR. AMIRSHAHI: Three.

15 MS. MILLER: Three, okay. You've used
16 the same three for six years. Okay.

17 MR. AMIRSHAHI: Five and a half I think
18 it is.

19 MS. MILLER: Okay. As far as your
20 Sundays go, so in general it was that -- you
21 don't do any patting or wandering for brunch, but
22 the evening you do either patting -- I mean pat

1 down and wanding or just pat down?

2 MR. AMIRSHAHI: The way Sunday works is
3 that we have a brunch that starts at 1:00 and it
4 goes to 5:00, and we have an extra, separate crew
5 coming in to do pat downs and we were, this is
6 what was happening prior. But at 5:00, and this
7 is what we've seen throughout the city, not
8 because there was any situation, I've seen what's
9 happened in other places and I've followed the
10 rest of the city and we just said, "this would be
11 a great way of having extra precaution of having
12 people pat down."

13 We brought people in to pat down, male
14 and female, and then later we decided with, at
15 that time it was Commander Reese at second
16 district, which we've had a number of
17 conversations with when we had some random stuff
18 during happy hour when people were snatching
19 purses, they had come to us and alerted us, and
20 he had said, "are you using overtime detail?" and
21 I said, "not really." He says, "well would it be
22 -- what would be a good day if you were going to

1 use it? Would you want to use these services?"
2 And I said, "well, actually, it would be good if
3 we tried it on Sundays," and that started -- in
4 addition to the pat downs we started doing
5 overtime detail, again not because there was any
6 issues there, just to have over and beyond
7 presence of people out there because it is a very
8 popular venue and a very popular day for people
9 to come there and so we went with that -- with
10 that advice and we also added overtime detail.
11 So, we have a combination of pat down and
12 overtime detail when this incident occurred.

13 MS. MILLER: Okay, thank you. I just
14 want to end with my -- I guess my first question
15 is -- is there anything you can say about this if
16 implemented would prevent what would have
17 happened? Or, really diminish the likelihood of
18 what happened?

19 MS. WILLIFORD: There's nothing --
20 standing here before you today, I cannot say that
21 anything could have prevented it. Some people
22 are just callous, they have intentions, and they

1 do heinous crimes. This is something that was
2 heinous, that just not preventable. We've racked
3 our brains trying to think of what could be done
4 differently, and I mean Barcode's response to
5 this, even with speaking with some of the police
6 officers, just appeared to be above and beyond.
7 They had the detail, they did the wandering, they
8 did the response and so it's difficult to say
9 that something, if they would have did X
10 different this would not have occurred.

11 But with that said, they have done --
12 they have done quite a bit previously, and also
13 adding the wands could help decrease the
14 likelihood of something like this happening. Can
15 it prevent it altogether? We can't guarantee
16 that, but it can decrease the likelihood because
17 it would be detecting metal.

18 MS. MILLER: Okay, in your wandering you're
19 going to be doing it Thursday, Friday? I'm
20 guessing. Tell me, Friday, Saturday night,
21 Sunday?

22 MS. WILLIFORD: This is, the way that

1 it's phrased within the OIC, it's Sundays after
2 4:00 and when they have promotional events.

3 MS. MILLER: And when promotionals, okay.
4 And what day -- promotions can be on any days, is
5 that it?

6 MR. AMIRSHAHI: We have promotions right
7 now on Wednesdays and Fri -- Wednesdays, and
8 Saturdays and Sundays.

9 MS. MILLER: Okay. All right I'm going
10 to stop now and let other Board members go.

11 CHAIRPERSON ANDERSON: Thank you Ms.
12 Miller.

13 MS. MILLER: Thank you.

14 CHAIRPERSON ANDERSON: What -- and I'm
15 going to call all the Board members, but I know
16 that it's a long offer in compromise and it's
17 going to take the Board a minute to digress
18 what's in it. I'll just ask the Board members --
19 we're all aware what the concerns are and just
20 ask questions to see whether or not the offer in
21 compromise is sufficient to address what's in it,
22 but I would prefer us not to go through it line

1 by line at this juncture, and so, go ahead Mr.
2 Alberti.

3 MR. ALBERTI: So, I'm just one specific
4 question about the offer in compromise, very
5 targeted. I don't see a provision here to send
6 this to the OAG. If the Board decided that we
7 thought there was a violation of the statutes.
8 Now, I mean the Board does have the report but I
9 don't think we've really had enough to digest --
10 time to digest -- whether we want to send this
11 over to the OAG and this offer in compromise, as
12 I read it, would stipulate that it's not going --
13 by the absence of that -- by the absence of
14 saying that, it would stipulate that we wouldn't.
15 So, might you enlighten me on that?

16 MS. SCHMIDT: No, we could not abrogate
17 your power. It might not say that but you always
18 have the inherent power to send this to the OAG.
19 At this point, the OAG does not, based on the
20 evidence before it, we're not sure it would go to
21 show cause. However, if you want to send it over
22 to the OAG, the OAG will never say "you cannot

1 send it over to us for a show cause."

2 MR. ALBERTI: Okay, so is there -- is
3 there -- do we have an understanding with the
4 other party? The licensee?

5 MS. SCHMIDT: It's not a matter of
6 understanding, it's your --

7 MR. ALBERTI: No. No, they are signing
8 on to OIC so I need to know that they understand
9 what -- what has been agreed to.

10 CHAIRPERSON ANDERSON: Yes, Mr. Woodson,
11 go ahead please.

12 MR. WOODSON: Yes, should I stand?

13 CHAIRPERSON ANDERSON: Whichever way
14 makes you comfortable, sir.

15 MR. WOODSON: We had an extended
16 discussion about this, Mr. Alberti. A summary
17 suspension is the single issue here because the
18 issue that you're addressing is whether the
19 operation of the establishment poses an imminent
20 threat to public safety. That's the issue in the
21 summary suspension. We -- our recommendation at
22 the end of the offer in compromise is that the

1 Board have an opportunity to review what the
2 record has been and what the record is that has
3 been submitted, there would be a period of time
4 within which the Barcode would be able to
5 establishment, through conduct and documentation,
6 that it has adhered to the terms of the revised
7 security plan, as well as the offer in
8 compromise. When the offer in compromise also
9 calls for the Board to reconvene with the parties
10 before it to review that compliance.

11 If , at the end of your deliberations
12 there, compliance, in your view, is not
13 sufficient, then the next step is to do one of
14 two things: You either move to a revocation
15 proceeding, or you move to an alternative which
16 could be a show cause. The submission to you is
17 that there is no real distinction between the
18 two, because the issue in both of them have the
19 same fundamental factual foundation, and secondly
20 the penalties associated with it can be the same.
21 In a show cause, it is a show cause for why the
22 license should be not be revoked. In the

1 revocation proceeding, it is, in fact, a
2 proceeding to determine whether there would be
3 revocation.

4 So, without being unduly convoluted about
5 it, our thought was that this interim period
6 would serve two purposes: One it would provide
7 an opportunity for there to be a demonstration to
8 the Board's satisfaction that things have changed
9 in a way that would ameliorate any subsequent
10 imminent danger to public safety, and secondly,
11 provide the Board the option where if not
12 satisfied then move to other penalties.

13 MR. ALBERTI: Okay, so Mr. Woodson, so I
14 fully understand because this is convoluted here,
15 all right? Maybe I misunderstood you but what I
16 hear you saying is that at the subsequent hearing
17 in 30 days what you're saying is that if we feel
18 that you haven't complied with the terms of this
19 OIC we could send it to the OAG.

20 MR. WOODSON: Yes.

21 MR. ALBERTI: Okay, so, but that's a
22 given. That's always a given. My issue is

1 separate from that. If the Board looks at this
2 report of the incident that happened and in our
3 estimation we think that the OAG should take a
4 closer look to determine whether it should go to
5 show cause based on the facts of the incident,
6 that's -- so -- so -- are we saying that this OIC
7 says that the Board's not going to do that or
8 that's still an open issue for the Board. That's
9 my question to you.

10 MR. WOODSON: All right. Let me try to
11 answer that question. Summary suspensions are
12 focused on one thing: Is the operation -- does
13 the operation -- present a danger to the public
14 safety? That's the issue in a summary
15 suspension. That was the issue and is the only
16 issue in Chief Lanier's [inaudible 33:23]. The
17 hearing today is to decide that question. Does
18 the summary suspension continuation in effect --
19 does the continuation of the summary suspension
20 today, is it justified because of public safety?
21 If the submissions today reveal that the concern
22 about imminent public safety through operations

1 has been resolved, then what is the Board to do?

2 The Board always has the prerogative to
3 ask for show cause, but I would offer to you that
4 irrespective of what you characterize it to be,
5 the argument is still the same. The facts are
6 the same, the remedy is the same. The facts are
7 that there has -- the facts are the same, the
8 remedy is the same whether the subsequent step is
9 a show cause or is a move to revocation.

10 We thought that -- after some extended
11 discussion -- that the need to demonstrate that
12 operations do not present a threat -- an imminent
13 threat to public safety -- the only way to do
14 that is for there to be an opportunity of
15 demonstration. It just can't happen because you
16 send a paper to me. We have sent you -- we have
17 presented to the Board -- what we believe is the
18 pathway, the benchmarks needed to establish that
19 public safety is not an issue again. There's no
20 way to say that that is true, absent an
21 opportunity to demonstrate it, hence what we've
22 asked for is not that the summary suspension

1 proceeding be terminated, we've asked you to lift
2 the suspension but retain jurisdiction through
3 the proceeding, so in effect when we reconvene in
4 30 days, we're doing it as reconvening a recessed
5 hearing, so that the proceeding has an ending.

6 At the end of the termination of the
7 demonstration period, the Board can either move
8 to revoke the license in a subsequent proceeding
9 or ask the OAG to consider it to be a show cause
10 is the next step. Our submission to you is that
11 they are basically the same thing.

12 MR. ALBERTI: Well, they -- I hear you
13 but it's not always the same thing. I mean, I
14 will give you examples. We have had summary
15 suspension hearings where the facts of the case
16 have more -- I'll put it out there. The facts of
17 this case in my estimation don't -- aren't --
18 don't obviously point to allegations of a
19 violation. I'm still hashing that out of my
20 mind, all right? I'll be honest with you, all
21 right?

22 We have had summary suspension hearings

1 where it's just obvious -- it's obvious that the
2 facts point to an allegation, all right?
3 Substantiated allegation, all right? And in
4 those cases we just send it right over. We don't
5 wait -- we don't keep this open. What you're
6 saying is that your understanding -- as I see it
7 -- is that we wouldn't make that decision today,
8 we would wait 30 days to make that decision. Is
9 that your understanding of this? We would wait
10 'til we reconvened to make our decision as to
11 what to do with any potential allegations.

12 MR. AMIRSHAHI: I think the -- I believe
13 my answer to that is yes. I believe it would be
14 if you will give me a chance to expand on it?

15 MR. ALBERTI: Sure.

16 MR. AMIRSHAHI: The decision today that
17 you have before you is do you allow Barcode to
18 reopen? That's the question to be asked.

19 MR. ALBERTI: Oh, yes.

20 MR. AMIRSHAHI: Will you allow it to be
21 reopened? The answer to that question is
22 grounded in whether you believe that a reopening

1 under these circumstances create an imminent
2 threat to the public safety, under the
3 circumstances that we've presented. If the
4 answer -- if your answer is yes, they could do it
5 -- they could do it -- there's two ways you can
6 do that. You can say "yes, you can reopen, the
7 proceeding has ended and everyone goes home".

8 On the other hand -- on the other hand --
9 summary suspensions in this circumstance, when
10 you don't have this obvious situation, what do
11 you do to help -- to help you, the Board members,
12 believe and determine that the situation is in
13 hand. What do you do?

14 I submit to you that simply going to OAG
15 now doesn't resolve the question because you
16 still have to have some foundation in order to
17 determine whether this works or not. There isn't
18 an obvious threat, there isn't an obvious
19 violation. I agree with you fully, Mr. Alberti,
20 there have been -- I think we -- I am
21 understanding what you're saying, and you're
22 understanding where I'm going.

1 MR. ALBERTI: So, I have another
2 procedural question, all right? I -- we actually
3 were given just moments ago copies of your
4 security plan, all right? So looking through
5 there, there are some deficiencies, all right? I
6 want to take a look at the OIC because I've
7 identified some deficiencies in my brief
8 overview, and I don't know how we deal with that,
9 but with respect to the security plan, maybe we
10 deal with it in the security plan, but with
11 respect to the security plan, what's the
12 expectation of the licensee? I mean, what's the
13 turnaround for us to say -- 'cause right now I
14 would not approve this security plan. Absolutely
15 would not -- my recommendation would be not to
16 use this security plan, but I think it's fixable,
17 all right? So, what is our procedure for getting
18 comments back to you and you making the updates.
19 I mean, you're hoping to open today and I don't
20 know how that timing's going to work. Am I? I'm
21 not being very clear here, but hopefully you
22 understand where I'm going.

1 MR. AMIRSHAHI: Yeah. It wasn't unclear
2 to me.

3 MR. ALBERTI: Okay.

4 MR. WOODSON: I certainly understand and
5 sense a conundrum here, and that's a question of
6 time. We are here, we are prepared to respond to
7 whatever the Board's concerns are right now.
8 That's why we're all here. Either we do it in a
9 hearing, or we do it in something of a less
10 formal procedure where we address your concerns
11 having reviewed the document. So, we're here
12 prepared to do that.

13 MR. ALBERTI: Okay. All right, I'm not
14 sure. It's a matter of timing. It's a matter of
15 timing -- it's a matter of comfort for the Board
16 to review and digest what's going on. I mean,
17 we're -- I mean, let's be honest. I mean -
18 Well, it's not an easy thing to go through here
19 and make comments and think about what's
20 necessary and just do that. I am not sure if we
21 do anybody a service, the citizens, you, the
22 government, a service by doing this in a half

1 hour so I don't know what the timing is and I'll
2 discuss that with my fellow Board members.

3 MR. WOODSON: May I offer a thought?

4 MR. ALBERTI: Sure.

5 MR. WOODSON: We've given you a different
6 situation to address for the offer in compromise
7 and the security plan. If we were to remove all
8 of that, just do nothing, and we just go to the
9 hearing on merits, at the end of that you have
10 the same issue. So, the issue hasn't changed,
11 it's just how you get to the conclusion, and so
12 if the hearing -- if the summary suspension
13 hearing that we would have today, gosh would go
14 three or four hours, I hope not but you know how
15 they run.

16 MR. ALBERTI: But our decision could be -
17 - it's like you have a week -- you know, we can
18 go through the hearing and say "okay you now have
19 a week to -- you have X number of days to make
20 your updates, and then the Board has, you know,
21 three business days to review your update, and
22 tell you that we're satisfied that you've

1 incorporated our comments. We don't have that
2 turnaround here built into this OIC. It's all
3 the expectation that we're going to do it today,
4 and I don't know how to react to that, quite
5 honestly.

6 MR. WOODSON: Well, that's my -- my
7 thought in that regard is you have -- you have a
8 couple of benefits. You have the support of able
9 counsel with the office of the attorney general -
10 -

11 MR. ALBERTI: I will agree with that.

12 MR. WOODSON: -- and you have --

13 MS. MILLER: So do I.

14 MR. WOODSON: You also have able counsel
15 with your GC, Martha Jenkins --

16 MR. ALBERTI: Absolutely.

17 MR. WOODSON: -- both of whom are
18 familiar with this. I don't think that the Board
19 is just sort of standing out on its own without
20 support, guidance and counsel. So, I do believe
21 that, given the able bodies and able hands that
22 are available today, you can get a sense of it.

1 Then if you need to have more time then why not
2 have enough -- why not rely on, at least
3 initially, the counsel and advice of the legal
4 support you have, make an interim decision for
5 us. That can be -- that could be resolved --
6 we're talking about a few days. Make an interim
7 decision for us. We can come back next
8 Wednesday, we could come back Monday, but we want
9 to be able to start operations again, so when --
10 I can tell you, I'm confident that the office of
11 the attorney general and ABRA 's general counsel
12 is not going to let this roll off willy-nilly.

13 MR. ALBERTI: And neither will the Board.
14 Thank you, Mr. Woodson.

15 MR. WOODSON: Thank you.

16 MR. ALBERTI: I appreciate it.

17 MR. WOODSON: All right. Done?

18 CHAIRPERSON ANDERSON: Yes, Mr. Short.

19 MR. SHORT: Good morning all. This to me
20 is a very serious matter. We have a person
21 that's deceased and we know the another was quite
22 injured. And the information we have is that two

1 knives were recovered. Is that correct?

2 MR. AMIRSHAHI: The information I have
3 not to -- one is someone eating at that table
4 next to a steak knife that we use for dining, we
5 serve until midnight every single day and it was
6 the knife that I made sure was secured there as
7 part of the crime scene. But there was two if
8 you want to count the knife for the guy --

9 MS. SCHMIDT: It hasn't been established
10 it was used for dining, it was just a steak
11 knife, well that's just keep it.

12 MR. AMIRSHAHI: There was a steak knife
13 at that table --

14 MR. SHORT: It belonged to your
15 establishment?

16 MR. AMIRSHAHI: It belonged to our
17 establishment.

18 MR. SHORT: And the other one did not
19 belong to your establishment?

20 MR. AMIRSHAHI: Right.

21 MR. SHORT: Okay, we know security is a
22 big issue now, it's just not Washington D.C.,

1 it's not just the United States. Security of
2 people and places in the public suddenly is just
3 off the chain, it's different than it was years
4 back. What I want to deal with when we're
5 dealing with this OIC that has been submitted is
6 to make sure we know whatever you were doing
7 didn't work, is that correct? What you were
8 doing did not work. Is that a yes or a no?

9 MS. WILLIFORD: Someone did get in --
10 someone actually did get --

11 MR. SHORT: Okay, so it did not work.
12 So, what I want to be myself as a Board member, I
13 want to be assured that the changes that are
14 going to be made will address that. And one of
15 the big issues that I have in my process -- my
16 thought process -- is if you open at 12:00 for
17 brunch on Sundays, what days -- during your
18 Wednesdays and Fridays do you also have brunches
19 or just on Sunday?

20 MR. AMIRSHAHI: We have lunch every day
21 Monday through Friday; we open at 11:30 lunch and
22 we serve all the way through dinner and happy

1 hour and dinner and some nights we stay open
2 later.

3 MR. SHORT: Okay, all right. So, if I
4 had ill intentions for someone or your business
5 and I came in at 12:00 on Sunday for brunch, and
6 I stay until 5:00 or 6:00, do I get wanded or
7 patted down or do -- what security do you have
8 for a person that just comes there, maybe one of
9 your VIPs or someone who is a regular, you know
10 them quite well, they spend money every week. Do
11 they get the same security treatment that someone
12 coming in at 4:00 would get?

13 MS. WILLIFORD: I can respond to that and
14 no, they do not, and what we know, it's still
15 under investigation, that's not exactly what
16 happened here, the person who came in, it was
17 after the wandling.

18 MR. SHORT: Okay, I understand. So --

19 MS. WILLIFORD: After the pat down.

20 MR. SHORT: Do you know for sure that the
21 person who came in and did the assault came in
22 after 4:00? That's the question I'm asking. Can

1 you answer that?

2 MS. WILLIFORD: We can't say for sure
3 because it's still under investigation.

4 MR. SHORT: Okay, well again, so now
5 there's a loophole there. The loophole is if
6 someone had come -- this is a scenario that could
7 have happened. Someone could have come in
8 earlier than 4:00 with their weapon -- gun --
9 bomb -- no security exists there and then after
10 4:00 something happens and then we hear "we don't
11 know." So, how do we change that? That's the
12 question I have. How do we change what did not
13 happen properly the night of this homicide.

14 MS. WILLIFORD: Well, the addition here
15 is that before there was just a pat down that was
16 occurring, it was not a wandering. The OIC does
17 present -- does have the addition of the wandering
18 which would arguably have an extra measure of
19 detecting metal that is in addition to the pat
20 down. The scenario that you mentioned, I know
21 it's a hypothetical. We do, from our accounts,
22 we do think that the person came in and was in

1 the establishment for a short amount of time.

2 MR. SHORT: But we don't know.

3 MS. WILLIFORD: That is the concern that
4 we have.

5 MR. SHORT: And I would be -- I would be
6 remiss in my duties as a Board member if six
7 months from now you haven't changed the way that
8 occurs it happens again. So, what do we do to
9 address that? How do you make me comfortable to
10 know that someone coming at 12:00 and sits there
11 until 4:00 and then something happens. It would
12 be ideal to think that someone came past your pat
13 down with a knife or weapon and they weren't
14 appropriately patted down.

15 MR. AMIRSHAHI: Three inch, a three inch
16 switchblade that opens up and goes this big.

17 MR. SHORT: Okay, I understand. Go
18 ahead, go ahead.

19 MS. WILLIFORD: I completely understand
20 your point and it's well taken, but this is, I
21 mean that can happen in any restaurant, the
22 people can come in, they can sit there and they

1 can do that. The thing is this Sunday operation
2 has been happening for over, what, six years, and
3 nothing like that has happened before, which I
4 know this is very serious and what happened on
5 the 31st --

6 MR. SHORT: Homicide.

7 MS. WILLIFORD: Yes, and Barcode takes it
8 very seriously which is why we've been working
9 with the OIC to hammer this out and which is why
10 they have been working with the MPD detail around
11 the clock to make sure that they assist the MPD
12 in whatever is needed to get that done. But, I
13 don't know if there's any establishment or any
14 restaurant around town someone can have those ill
15 intentions and providing some assurance of that
16 not happening is very difficult.

17 MR. SHORT: Are you positive of that
18 statement?

19 MS. WILLIFORD: Am I --

20 MR. SHORT: Because I go to the Walter
21 Washington Convention Center and have breakfasts
22 and dinners. I have to go through security. So,

1 wanded, and I'm patted down and I go through a
2 magnetometer. So it's very unlikely that
3 someone's going to smuggle a weapon in there.
4 So, when you say to me it's like any other
5 restaurant I beg to differ with you because there
6 are some other places in town where they do have
7 security and we know it and most people know it,
8 and so people would not go there unless they want
9 to get caught.

10 So, I'm asking you what can your
11 restaurant do differently with the early crowd
12 versus your late crowd to make sure that that
13 security is in place, because right now if you
14 open up the same way, with all of these OICs and
15 all of the issues that you have addressed, that
16 point to me has not been appropriately addressed
17 and I -- please, go ahead sir.

18 MR. AMIRSHAHI: Mr. Short, thank you for
19 your time and I appreciate your concerns. One of
20 the -- just speaking again, there's nothing I can
21 say except that we feel just as bad for any
22 tragic incident that would happen anywhere in

1 this city, especially at our place. I think you
2 know me well enough and our establishments that
3 we take these things very seriously and we -- and
4 the reason for the OI -- the report and the
5 recommendations that we've taken over and beyond,
6 and your question about Sunday, and we said,
7 okay, not only are we going to -- whatever it is
8 that we can do, if there's a 1% chance that
9 something could be improved we're willing to do
10 it, including detail on days that we've never had
11 issues, that she's recommended, and we said okay
12 to it on any day that we have a promoter, to
13 actively have police detail there on days that,
14 again, we have not had any issues in five and a
15 half years that we've been open, and we'll take
16 those recommendations.

17 Also recommendations, just so you're
18 aware, again I'm not comparing it to other
19 places, but other places that we've seen, STK,
20 Maestros, those are who we compete with at those
21 hours during those brunch hours. There's things
22 we can do better. We just want to make sure if

1 we can wand, if we can do pat down -- we did
2 these improvements because we've seen what has
3 happened in the city, good or bad. We've seen
4 that during the brunch party it's a popular
5 place. People come in there -- you know, people
6 come in with a bag, people come in at different
7 times, they go in and out. What can we do to
8 make things better? We said hey, 5:00 we're
9 going to start patting down people. It was
10 different, nothing happened, we reacted to that
11 because I saw things happen at other nightclubs,
12 other restaurants, people staying later, people
13 maybe drinking a little longer, football games
14 happening, all those issues.

15 So we said what is it we can do to make
16 it better, we added that security of male and
17 female being patted down. Later we, as I
18 mentioned, we said we're going to bring detail in
19 as an extra precaution. Again, we weren't in
20 front of the Board, nothing that was presented to
21 us has said that we have to do this, we did it on
22 top of that. I want you to at least respect the

1 level that we have -- I'm there every day, I deal
2 -- this is all I do.

3 MR. SHORT: I don't have a problem with
4 what you're saying. All of those things appear
5 to have been working. But they did not work.
6 What are we going to do, again, and specifically
7 directly to you --

8 MR. AMIRSHAHI: I think the pat down --
9 the pat down and the combination of wandling, is
10 the big thing that could deter another level of
11 happening. Again, we don't know the facts, but
12 from what we've seen this was a thing that
13 happened. Five minutes, the guy was hit and
14 walked out five minutes later. I don't know
15 where you can prevent that. Just like there was
16 a shooting at two police officers in front of
17 Panera Bread. Just like anything that can happen
18 anywhere in the city.

19 MR. SHORT: I understand.

20 MR. AMIRSHAHI: We want to make sure in
21 this particular situation that this is not
22 repeated and we don't have to come to see you on

1 any of these things.

2 MR. SHORT: Can we just stay with Barcode
3 for today?

4 MR. AMIRSHAHI: I am sticking to Barcode
5 and I'm just trying to --

6 MR. SHORT: Now, again, can you -- can
7 you answer me whether the, we saw the footage
8 apparently with the police. Was anybody
9 recognizable that was assaulted, or did the
10 assault take -- were they regular customers? Had
11 you seen them there before?

12 MR. AMIRSHAHI: The -- the people that we
13 feel or is leading that investigation, it seems
14 that we've never seen that person.

15 MR. SHORT: Either one?

16 MR. AMIRSHAHI: The one -- the particular
17 person that --

18 MR. SHORT: Either the victim or the
19 victimizer?

20 MR. AMIRSHAHI: Oh, the victim, it's been
21 known that he has frequented the club perhaps
22 before yes, the victim.

1 MR. SHORT: Would he be considered one of
2 your VIPs?

3 MR. AMIRSHAHI: No, and I've seen him
4 maybe -- my understanding is he's been there a
5 handful of times, nothing -- he was at the bar a
6 few minutes before that and ordered a pitcher of
7 margaritas.

8 MR. SHORT: Okay. Lastly, and I won't
9 keep beating a dead horse, but I'd like to get a
10 proper response. What's going to be the
11 difference between someone coming in for a brunch
12 or for a meal earlier than 4:00 or 5:00 who stays
13 later than that, what kind of security does that
14 person get that people will get that come in
15 after 4:00? What is the difference?

16 MR. AMIRSHAHI: We suggested, and I'm
17 open to the Board's advice --

18 MR. SHORT: No, you're the owner, please
19 tell us.

20 MR. AMIRSHAHI: I -- I had said that
21 we're open to wandering and searching as early as
22 we need to. So, if you feel that that -- you

1 know, again, it's hard to differentiate, as you
2 said, somebody comes at 2:00 versus somebody who
3 comes at 5:00, but it has been, you know,
4 government workers and suit and tie people who
5 come there at a certain time for brunch. If we
6 need to search them at 1:00 we're open to that as
7 well. If that --

8 MR. SHORT: Well, do you agree that
9 ultimately you are the only person that can solve
10 this riddle? Do you agree to that? You as the
11 owner and operator are the only one that can
12 solve that issue. Is that a true statement?

13 MS. WILLIFORD: When you say "solve that
14 riddle" what, what's your --

15 MR. SHORT: Well, we're talking about the
16 question on the table at this particular
17 [inaudible 56:14] was the persons coming in
18 early, before 4:00, the persons who come after
19 4:00 who are wanded and padded, and he says maybe
20 he's going to change that but I want to know how
21 he's going to change it. Something to the Board.

22 MR. AMIRSHAHI: The OAG recommended that

1 we do it earlier and we said we're fine with
2 that.

3 MR. SHORT: How early?

4 MR. AMIRSHAHI: They said 4:00 is what
5 they recommended and we accepted that
6 recommendation.

7 MR. SHORT: I hear you, Mr. Alberti, but
8 what I'm trying to just get is we've talked about
9 this, I want him to help himself and help us so I
10 can feel very comfortable when I make my vote on
11 this OIC, that there's going to be a difference
12 between what took place the homicide night and
13 what's going to take place after you reopen after
14 this police chief closure.

15 MR. SHORT: And the big difference is
16 that we will be adding another layer step of
17 wandering people, and another precaution that
18 people see that we're not letting people in as
19 another extra measure to make sure that doesn't
20 happen.

21 MR. SHORT: Okay. Well I'm good. Thank
22 you Mr. Chair.

1 CHAIRPERSON ANDERSON: Mr. Silverstein.

2 MR. SILVERSTEIN: Thank you, Mr. Chair.

3 Mr. Woodson, you made the comment that we have to
4 determine whether, and even in danger will occur
5 if we allow the place to reopen and I would point
6 out that the police chief stated in the closure
7 order that there was an imminent danger and that
8 we continue that, and I would hope that the
9 purpose of this is to come up with a solution
10 that makes it clear that the imminent danger no
11 longer exists.

12 And I think -- I hope that we're all
13 looking to that rather than to build a case
14 against at this point. Regarding that point #12
15 "all patrons entering the establishment on
16 Sundays after 4:00 p.m. or other days when an
17 outside promoter is utilized shall be wanded and
18 patted down." Why would we want a pat down when
19 there's an outside promoter? What is the -- what
20 is the reasoning behind that?

21 MS. SCHMIDT: Can I answer that? Well,
22 actually this is something that was insisted on

1 by the AG's office. We do think there are
2 several promotions where there's not a safety or
3 security concern or issue that's been going on,
4 but we wanted to address the AG's concerns with
5 respect to that.

6 MR. SILVERSTEIN: And, we've had a number
7 of very serious incidents in the Dupont Circle
8 area that have occurred on Sunday nights where
9 there has been a promoter involved, and they have
10 become serious acts of violence, in fact grave
11 acts of violence, and I would ask how important
12 it is for you to have promoters, especially on
13 Sunday nights. For whatever reason, this seems
14 to be a serious problem for us and we're more
15 interested in public safety than just about
16 anything else.

17 MS. WILLIFORD: May I answer, and then
18 I'll let him answer? There are a number of
19 different types of promoters and I understand the
20 concern that you have with respect to safety.
21 Barcode has been in operation for a number of
22 years and has used promoters and this is the

1 first time that a serious incident like this has
2 happened, and it's tragic, and we want to make
3 sure that it gets addressed, but they have
4 utilized promoters on numerous occasions and
5 unlike some of the other establishments that you
6 were referring to, they have not had those
7 concerns, and I truly think it's because of the
8 ownership that we have here today in terms of
9 them making sure that they have their thumb on
10 safety and taking the added measures with respect
11 to whenever they promote an event.

12 And so, whatever outside promoter is
13 utilized. And also, from a standpoint of -- you
14 mentioned before that they do use the same
15 promoters because of their comfort level with
16 them, and there's different promoters that are
17 used different nights. The Sunday promoter, from
18 what I understand, is only promoting for that
19 night and they use different promoters for the
20 others, whether it's a sporting event, you know,
21 for the Super Bowl or something like that that
22 may occur. They can use an outside promoter with

1 respect to that. It wouldn't garner maybe the
2 crowd that you were thinking of but that's a use
3 of an outside promoter that they would actually
4 use, so what you have in your mind about outside
5 promoter equals violence or a certain type of
6 crowd is not exactly what Barcode would be using
7 in this situation, and you can expand upon that
8 more.

9 MR. AMIRSHAHI: We've been very
10 consistent on using the promoters that we've
11 worked with. This particular promoter on Sunday
12 has -- has -- has only done events with us and
13 for many, many years. They used to do it at
14 Lima, which we never had any issues with and he's
15 only done his -- done promotion with us. We've
16 stuck -- we have been able to keep the promoters
17 that we have and make sure that we don't have
18 issues, that we're in charge of what happens,
19 we're in charge of what happens at the front
20 door, and we've had, for, you know, been doing
21 this for 20 years and have not had a situation
22 like this, unfortunately, and tragic.

1 If there was something that I felt that
2 we could have done better and we're listening to
3 every possible angle and any recommendation, even
4 on off nights that we've never had an issue with,
5 we've accepted those the same way that you said
6 about the pat downs and other nights. I
7 mentioned those concerns and listened. We've
8 never had an issue on those nights. Maybe people
9 will feel weird, maybe they won't, but we'll go
10 ahead and do it if that's what you feel -- is --
11 makes the Board feel safer and you feel safer
12 about our place.

13 We haven't had an issue on Wednesdays, we
14 haven't had an issue on Saturdays. How is that
15 going to be -- you know, what's going to happen
16 if we have a party with the Washington Post,
17 National Geographic, they come there all the time
18 for our Wednesday Latin nights, they come there
19 all the time for our Friday and Saturday nights.
20 How are they going to react with some people
21 being patted down now and wanded? I don't know.
22 But, we're willing to go ahead, and that was

1 mostly the discussion going back and forth that
2 we do serve 30% food, it's open at 11:00, you
3 know, we're not categorizing this place the same,
4 and I'm not trying to bring our own places that
5 are open two days a week, four hours a night.
6 This place is open 18 hours a day, you know,
7 seven days a week. We serve 30% food. You know,
8 it's a big number for us. Our food is very
9 popular and I think if you've been there or know
10 it, I think Mr. Silverstein you know more than
11 anybody because you're in that ANC, we serve a
12 tremendous amount of food there. We're open at
13 lunchtime every single day.

14 MR. SILVERSTEIN: You can go there and get
15 a sandwich at lunch and then just go back to
16 work, I mean it's not --

17 MR. AMIRSHAHI: And it's a very big draw
18 -- you know -- how do we -- you know, you asked
19 that question about -- you know -- searching and
20 why we're going to be doing it on certain nights,
21 and that was my question back, is I don't mind
22 doing anything you guys ask us to do, over and

1 beyond, and what I recommend to make it better
2 whether there's a half a percent chance of
3 anything else happening. But I didn't want to
4 offend anybody and people not coming there
5 because all of a sudden now we're wanding. Maybe
6 people will think that's a safety measure that
7 they'll appreciate, like Mr. Short mentioned in
8 the government building. I don't know. But, I
9 just, I was open to any suggestion and we said,
10 okay we'll go ahead and put detail if you want us
11 on other nights.

12 MR. SILVERSTEIN: I think that's the
13 riddle. I think that's the riddle that we have
14 to work on, the riddle that Mr. Short was talking
15 about, is that you -- you have several faces to
16 your establishment.

17 MR. AMIRSHAHI: Exactly.

18 MR. SILVERSTEIN: During the daytime,
19 during the week, you're a lunch spot for the
20 business community and everybody else in that
21 neighborhood. And then you become something
22 else, and how -- and there's a different need for

1 different security at different times. How do we
2 properly secure an establishment that has
3 different needs at different times? And that's
4 something that we'll all work on. Are we agreed
5 on it?

6 MS. WILLIFORD: There are some
7 suggestions in the plan that you'll take a look
8 at for how we suggest addressing that very
9 concern.

10 MR. SILVERSTEIN: Thank you very much.

11 CHAIRPERSON ANDERSON: Do we have any
12 other questions from any Board members that will
13 address new areas of concerns, not necessarily
14 areas that have been addressed before, but just
15 new areas of concern. Yes, Ms. Miller.

16 MS. MILLER: Okay, I just want a follow-
17 up question, and I know this was -- I didn't see
18 it in the report or anything, but based on the
19 conversation today where it was just trying to
20 look at what scenarios may create a need for
21 greater security. So, my question is about what
22 goes on on Sunday nights. Is there anything with

1 the music that attracts a certain crowd on a
2 Sunday night that's different from Saturday night
3 or Friday night or whatever?

4 MR. WOODSON: Can I confer for a minute?

5 MR. AMIRSHAHI: Just so you know, our
6 Sunday -- Sunday -- if you don't mind me
7 answering -- is that we've had this party for
8 five and a half years. It's built up in the
9 sense that you have a brunch party that is very
10 successful. It has sold out for years. It's
11 months in advance we have reservations. We've
12 been closed ten days now. People who have never
13 been there at nighttime are blowing up the phone
14 for the daytime as we're speaking.

15 All I'm saying is we have different
16 segments, as Mr. Silverstein said, throughout the
17 day. People come there for brunch, people come
18 there for happy hour, people come there for
19 dinner, people come there for the football games.
20 We have the same crowd that has been coming there
21 for five and a half years. They know their own
22 tables, their own sections. That's why we were

1 so perplexed when this incident happened, like
2 who is this person? How come nobody recognized
3 this thing, how could somebody who nobody knows,
4 when 90% of the people on Sundays is the same
5 person coming there getting the same table, or
6 the same food, or the same item, not recognize
7 the situation? You know? And every camera and
8 every angle we try to say, how could it have
9 happened? Did they just come here at 1:30 and
10 been there for 10 hours for this to occur? Could
11 they have come in somehow with a steak knife
12 that's bigger than the knife there? Those are
13 questions I'm dealing with now because maybe we
14 shouldn't have steak knives out there. Those are
15 things that we're -- you know -- have knives that
16 are not sharp, or have no knife, you know, what
17 you do. The Board has been big on pushing food.
18 We've pushed food and a full dinner thing until
19 midnight there. We close, usually, that party at
20 12:00 - 12:30 by choice, we're ten minutes away
21 from closing. So how someone comes in that no
22 one recognizes, and does this as a, what we feel,

1 or I feel, was an isolated five minutes in, five
2 minutes out, how could I have prevented that? I
3 don't know how you can prevent someone with a
4 three-inch knife putting it in places that you
5 can't search or whatever. All of those things we
6 have addressed. And it's concerning to us. But
7 to answer your question about the type of people,
8 it's like a family type people, everybody knows
9 everybody there. Nobody can identify this person
10 and how they came in and out within five minutes.
11 He actually ran into me. I happened to be at the
12 front door and stormed out and hit me almost
13 over. So, even I didn't recognize him, but I had
14 enough of a glimpse of him that I think if that's
15 the person, 24 hours I was there, I was there
16 from the time it happened, I was there at 5:00, I
17 was there at 11:30 when it happened until the
18 next day for almost 30 hours straight. And I
19 worked with all of these, to have the video, to
20 have it preserved, whatever we could do. That
21 speaks for itself. It doesn't, unfortunately,
22 take away from someone dying.

1 MS. MILLER: Armand, I just want to say
2 two things: One is one of the reasons I asked
3 that is so that, you know, if the Board, it may
4 be apparent in the security plan, but looking at
5 when you might need more security that maybe we
6 don't put on all of those nights when you have
7 National Geographic coming, or something, as
8 opposed to a party. The second, I think that in
9 this day and age that maybe -- I don't know who
10 you use for security, but maybe, you know, a
11 terrorist could come in. And it's kind of like
12 if you have this type of -- somebody with
13 security with experience who can spot, maybe,
14 somebody that looks different or peculiar or
15 whatever, that that would be a way to avoid
16 something like this, because it's basically what
17 you're saying you don't know who this guy was or
18 anything, but most people are regulars. I don't
19 know.

20 MR. AMIRSHAHI: Just to answer, and I
21 really appreciate that because it's exactly the
22 same comments I have, that we have different

1 segments, not in a bad way, in a good way. We
2 have the Washington Post next to us, we have the
3 [inaudible 1:09] next to us, we have big law
4 firms next to us and looking at the map you can
5 see that our general manager for our building is
6 in here. They're concerned because, you know,
7 what are we going to be doing? Wandering people,
8 not wandering people? We have a party for
9 [inaudible] that we do every year pretty much.
10 Are these people going to get wandered? So, we
11 tried to put whatever we could on there that
12 protects that.

13 And if you have -- you know we had the
14 other day the whole Mandarin Oriental call us and
15 say 75 people are coming, we're going to send
16 them to you on Friday night. Okay? In this
17 scenario we have detail and now these people are
18 getting wandered. I mean it might be okay for an
19 extra precaution. I don't know. I just don't
20 know what the reaction will be, just as you said.
21 And to answer your question about security, we
22 have four other nightclubs, we're not new at

1 this. If I wanted to do it the way -- I looked
2 at Barcode when we first opened it and said
3 here's -- this is what it's going to be. This is
4 our concept. We're open about what we're going
5 to do at nighttime. It's not a -- you know -- if
6 we need extra security am I going to draw it from
7 our other places and drain their resources and
8 say the club has [inaudible 1:11:10] send me four
9 guys to Barcode.

10 So we said, you know what? The only day
11 that we're not going to have our security is
12 going to be on days that might be a popular
13 night. It happens to be Sundays. We have
14 different hours, we're open longer, we don't have
15 enough security. I'm not going to bring part-
16 time security working for us one day a week, so
17 we hired a company, professional, licensed,
18 bonded and made sure that they understand and
19 they send us four to six to eight people on
20 Sundays as we need it, to search people, to have
21 security shirts on, to be an added layer on top
22 of the detail to help us to make sure to answer

1 your questions, to make sure if they see certain
2 things that they see at other clubs, and be able
3 to make sure they get them to a pat down, and
4 looking at people, anybody that's drunk.

5 Being able to work with our security --
6 our head of security, which is here as well, is
7 also our manager. He's been doing this for 20
8 years. He's worked at Love, he's worked at Park,
9 he's worked at Lima, he's worked at UltraBar.
10 Three of those places are our places. And now he
11 works for us. He's not only our manager
12 Wednesday through Sunday, he's the head of our
13 security. So if somebody with 20 years of
14 security experience isn't good enough, who trains
15 all of our guys, I don't know. Again, I'm not
16 putting down that there's a half percent or one
17 percent or five percent things that we can do
18 better and we're open for all of those
19 suggestions.

20 MS. MILLER: Thank you. Thank you Mr.
21 Chairman.

22 CHAIRPERSON ANDERSON: Any other

1 questions from any other Board members? Just in
2 reviewing the offer in compromise, it talks about
3 that you'll provide the Board a list of security
4 personnel. When will that information -- you
5 said by 5:00 today. Is that information
6 available for us now? Or when will we receive
7 it?

8 MR. AMIRSHAHI: It is available. I had
9 listed -- again, I'm not trying to say anything
10 bad about -- I don't like to say something I
11 can't follow through on. That's why I had a
12 problem with wandering and not wandering. I want to
13 make sure if I say I'm going to do it, I'm going
14 to be able to do it and not an ABC investigator
15 come in saying, wait a minute, you have a party,
16 is it an outside promoter or not an outside
17 promoter? Oh, you should be doing X, Y and Z,
18 it's a violation. Same with your question about
19 security.

20 CHAIRPERSON ANDERSON: No, no, no, no.
21 I'm asking about number 3 of the same --

22 MR. AMIRSHAHI: Yeah. I just didn't

1 understand if the list of security was going in
2 the manual, because these people --

3 MS. WILLIFORD: We'll provide the list.

4 CHAIRPERSON ANDERSON: Okay. When will
5 we receive this? It says by 5:00 today, I'm just
6 asking.

7 MR. AMIRSHAHI: We'll have it in ten
8 minutes, just turn back the clock.

9 CHAIRPERSON ANDERSON: I'm just going
10 through the plan to make sure that we're provided
11 the information that you stated would be -- I
12 mean, the only question I had, question was
13 related to Mr. Short's question. I am concerned
14 that -- I know that you have stated that the
15 promoters come in at 5:00 and then now that you -
16 - I guess you recognize the fact that folks that
17 are coming at 4:00 and you're going to wand them,
18 but what's going to happen if you now realize
19 that folks are coming at 3:00? But let -- and
20 I'll ask the question. You're in business a
21 number of years, what percentage of folks who
22 will come in early and stay for the night? I

1 mean, is it a large crowd or is it a minor number
2 of folks who do that.

3 MR. AMIRSHAHI: A lot of them will stay,
4 I would say maybe 30% when I mean a lot, but
5 sometimes -- the suggestion before was that we
6 let everybody out and bring them back in and I
7 just, it was one of those things where I said,
8 listen I can't do that. We have football games.
9 We have somebody that pays for a brunch and then
10 says "Oh, I'm sorry you've got to step out for
11 half an hour and then come back in." It just
12 didn't make sense so my suggestion was, you tell
13 us the time, the suggestion was we need to do it
14 way earlier at 4:00. If you guys suggest
15 anything different we're open to that.

16 CHAIRPERSON ANDERSON: No, I'm asking you
17 -- I mean I thought -- I'm just asking you,
18 you're telling us, why 4:00? I mean, if folks,
19 somebody might tell you 3:00 but I'm not telling
20 you a specific time. I was just asking you why
21 4:00?

22 MR. AMIRSHAHI: I'm open to it, I just

1 was worried about the, again, someone has died
2 there, but you know, if I'm at the Four Seasons
3 I'm not getting wanded, if you think we should
4 wand earlier we're open for that suggestion.

5 CHAIRPERSON ANDERSON: I'm not making any
6 such suggestion. I was just asking a question.
7 All right, I just want to make sure that there
8 are no other Board members who have questions
9 that they want to ask? And have we exhausted all
10 the questions?

11 MR. WOODSON: Mr. Chairman could I make a
12 remark?

13 CHAIRPERSON ANDERSON: Yes, please.

14 MR. WOODSON: Not to take away from able
15 counsel. If I might, Mr. Short asks the \$64,000
16 question. What can you do to stop it? I think
17 the reasonable answer is everything you can.
18 That doesn't mean that the result of everything
19 you can is nothing ever happens ever again, but
20 you do the best you can, you do the very best you
21 can with what you have. If -- I think I heard --
22 and I believe I just heard Mr. Amirshahi say that

1 if wandering on Sundays is better to take place
2 earlier in the day, then so be it. But, beyond
3 the things that have been done what more can
4 anyone do to prevent something, an act of this
5 nature. This is -- a homicide is not a
6 fistfight. You know, you get angry over things,
7 you have a fistfight, but a homicide. It's hard
8 to know how any establishment, particularly with
9 the kind of track record that Barcode has, could
10 prevent 100% such a heinous act. If someone is
11 determined to do it, how do you prevent that? I
12 don't know if there is an answer to that, Mr.
13 Short, but the only thing I believe that the best
14 things that Barcode can do is all that it can.
15 And we believe that the steps that have been
16 outlined, the plan that's been presented, has had
17 one question from you that we have yet to
18 resolve, and that is, perhaps we could do it
19 earlier on Sundays. Mr. Amirshahi, are you
20 prepared to undertake a wandering on Sundays
21 earlier in the afternoon?

22 MR. AMIRSHAHI: Yes.

1 MR. WOODSON: Would 2:00 p.m. be
2 satisfactory?

3 MR. AMIRSHAHI: That's fine with us.

4 MR. SHORT: All we can do is what we can
5 do, Mr. Woodson, I agree with you 100%, and I'll
6 talk to my other Board members, and I can't make
7 any decisions out here. We have to all talk this
8 over --

9 MR. WOODSON: But of course. Thank you,
10 sir.

11 MR. SHORT: We appreciate your
12 cooperation and willingness to work with us.
13 Thank you.

14 CHAIRPERSON ANDERSON: Of course, the
15 court is not going to make a decision. We'll
16 make a decision today but not right here. Do you
17 have any final comments before it closes?

18 MS. WILLIFORD: No, not at this time.

19 CHAIRPERSON ANDERSON: All right, as
20 chairperson on the Alcoholic Beverage Control
21 Board for the District of Columbia and in
22 accordance with D.C. Official Code Section 257-4B

1 of the Open Meetings Act, I move that the ABC
2 Board hold a closed meeting for the purpose of
3 seeking legal advice from our counsel on Case
4 #16-251-00010, Barcode, License #82039 pursuant
5 to D.C. Official Code Section 257-4B of the Open
6 Meetings Act and deliberation upon Case #16-251-
7 00010, Barcode License #82039, for the reasons
8 cited in D.C. Official Code Section 257-4B-13 of
9 the Open Meetings Act. Is there a second?

10 MR. SHORT: Second.

11 CHAIRPERSON ANDERSON: Mr. Short has
12 seconded the motion. I'll now take a roll call
13 vote on the motion before us now that has been
14 seconded. Ms. Miller?

15 MS. MILLER: I agree.

16 CHAIRPERSON ANDERSON: Mr. Alberti?

17 MR. ALBERTI: I agree.

18 CHAIRPERSON ANDERSON: Mr. Short?

19 MR. SHORT: I agree.

20 CHAIRPERSON ANDERSON: Mr. Silverstein?

21 MR. SILVERSTEIN: I agree.

22 CHAIRPERSON ANDERSON: Mr. Anderson. So

1 the vote is 5 to nothing. As it appears that the
2 motion has passed, I hereby give notice that the
3 ABC Board will recess these proceedings to hold a
4 closed meeting in the ABC Conference room
5 pursuant to Section 257-4B of the Open Meetings
6 Act. We're now adjourned. Thank you very much
7 for your presentation.

8

9 [12:45 p.m.]

10 CHAIRPERSON ANDERSON: We're back on the
11 record on the Summary Suspension Hearing for
12 Barcode. Should I repeat it, or have you got it?
13 All right. Earlier this morning, the parties had
14 offered the Board an offer in compromise for us
15 to consider. The Board went back and deliberated
16 and after deliberating I'm not going to repeat
17 the -- it's a long offer in compromise, so I'm
18 not going to repeat the terms verbatim. However,
19 the party has agreed to make some changes to the
20 security procedures and the parties have agreed
21 that within 30 days or so we'd come back -- hold
22 this meeting in abeyance -- and come back for

1 another hearing. So, after deliberating, I make
2 a motion that this offer in compromise be
3 accepted. Is there a second?

4 MR. SILVERSTEIN: Second.

5 CHAIRPERSON ANDERSON: Mr. Silverstein
6 has seconded the motion. Those in favor say aye.
7 [Chorus of Ayes.] Those opposed? [No audible
8 response.] The matter passes 5-0-0. The Board
9 will issue a Board Order incorporating the terms.
10 Just one thing that I would ask -- what the Board
11 will do -- we have received a copy of the
12 security plan, we, the Board, will give you --
13 will review it and make some comments and give it
14 to you by close of business on February the 16th,
15 and you have until February the 19th to respond
16 with your comments with the security plan that's
17 been reviewed. So it's understood that the
18 security plan you gave us today, we are going to
19 review it, make some comments -- make some
20 comments. You'll get that back from -- by the
21 16th -- close of business on February 16th, and
22 you can review the comments that are incorporated

1 and give us back a response by the 19th and based
2 on the decision that the Board is making today,
3 the establishment can reopen at 6:00 p.m. today.

4 MS. WILLIFORD: It can reopen?

5 CHAIRPERSON ANDERSON: Can -- can reopen
6 at 6:00 p.m. today.

7 MR. WOODSON: Mr. Chairman I have a
8 question.

9 CHAIRPERSON ANDERSON: Yes, Mr. Woodson?

10 MR. WOODSON: When the Board issues its
11 questions or comments on the security plan should
12 we be in consultation on OAG on terms of securing
13 the plan? How should we respond to that? Will
14 it to them? To -- so we'll know who we.

15 CHAIRPERSON ANDERSON: I think -- the way
16 -- the way the OAG -- the OIC is written -- it
17 basically states you're going to give the Board
18 the security plan and the Board would review it
19 and approve the security plan before the matter
20 would be -- before you'd be allowed to open, but
21 what we've changed that a little bit that you can
22 provide -- we will provide -- the Board through

1 our general counsel will provide you our
2 comments.

3 MR. WOODSON: Okay.

4 CHAIRPERSON ANDERSON: And then you
5 respond to the general -- to our general counsel,
6 and, of course --

7 MS. SCHMIDT: Just one quick question.
8 Everything that's in the OIC will be in the
9 security plan? The Board intends on expanding
10 the security plan, not taking away what's in the
11 OIC?

12 CHAIRPERSON ANDERSON: We're not taking
13 away what's in the OIC.

14 MS. SCHMIDT: Okay.

15 CHAIRPERSON ANDERSON: Remember, the OIC
16 states that you're going to give us a security
17 plan for us to review.

18 MS. SCHMIDT: Oh no, I understand that.
19 I just want to make sure what's in the security
20 plan is what's already in the OIC, plus more.

21 CHAIRPERSON ANDERSON: Plus -- plus some
22 other additions that the Board has that are

1 germane to the issue while we're here today.

2 MS. SCHMIDT: Thank you.

3 CHAIRPERSON ANDERSON: And so I think
4 that we believe that, although it's an issue
5 that's unfortunate, we believe that the club has
6 shown good faith in the plan that it has proposed
7 and so we think that it's -- the club does not
8 show an imminent danger and that's one of the
9 reasons we voted to allow the establishment to
10 open at 6:00 today.

11 MS. WILLIFORD: Thank you, thank you for
12 that and for allowing them to open at 6:00 p.m.
13 Just for clarification purposes, should they be
14 operating under the terms of what was submitted
15 for the plan until we hear back on the 16th?

16 CHAIRPERSON ANDERSON: Well, yeah. And I
17 would say that -- I would ask you to abide by
18 what you have agreed to.

19 MS. WILLIFORD: Okay.

20 CHAIRPERSON ANDERSON: And if there are
21 any enhancements, that you believe that are
22 necessary, of course go ahead and do that.

1 MS. WILLIFORD: Okay.

2 CHAIRPERSON ANDERSON: But you should --
3 you're abiding by what's in the OIC.

4 MR. ALBERTI: So, just to make clear, and
5 I'll ask a question if I may?

6 CHAIRPERSON ANDERSON: Go ahead, Mr.
7 Alberti.

8 MR. ALBERTI: I believe what we're
9 agreeing to is that you have submitted a
10 redlined, updated, currently, so my understanding
11 is that that's the security plan that --

12 CHAIRPERSON ANDERSON: Yes.

13 MS. WILLIFORD: Yes.

14 MR. ALBERTI: -- the one that they
15 submitted today would be the one they would be
16 operating on until we resolve the comments the
17 Board has.

18 CHAIRPERSON ANDERSON: The adjustments
19 that the Board has to -- the updated security
20 plan that you have provided because, as stated
21 before, your agreement says that we need to
22 approve it. I mean, we could have stated that,

1 well, we'd have a whole lot of changes to make so
2 we're not going to approve it, so you have to
3 stay closed, but I think that based on the
4 presentation today the Board is satisfied that
5 the appli -- I'm sorry -- the licensee has taken
6 some significant changes to address the issues
7 that were raised in the closure letter issued by
8 the chief of police. We're satisfied that the
9 applicant is on its way to making -- to protect
10 the public from the danger.

11 MR. WOODSON: Mr. Chairman, I have one
12 other question.

13 CHAIRPERSON ANDERSON: Of course, you can
14 always ask questions.

15 MR. WOODSON: You've noted that we will
16 come back to the Board -- excuse me, we will be
17 returning to the Board for this recessed hearing
18 date? Do you have a date certain at this time?

19 CHAIRPERSON ANDERSON: March -- March
20 30th -- March 16th at 3:30. You should get a
21 Board order hopefully probably by close of
22 business or tomorrow, you should have a Board

1 order that has the dates, the terms -- you
2 probably will get a Board order either by close
3 of business today or tomorrow that states the
4 terms and which will also list the date and time
5 of the hearing.

6 MR. WOODSON: Thank you.

7 CHAIRPERSON ANDERSON: Does any Board
8 member have any comments? Yes, Mr. Silverstein.

9 MR. SILVERSTEIN: I'd like to thank both
10 sides here for an excellent effort and a solid
11 presentation. I think we all have gained from
12 this and I think the public will gain safety from
13 the efforts that have been made here. There was
14 some failure on the part of the licensee in this
15 case, as there's always going to be in a tragedy
16 of this type, and I hope that we can learn going
17 forward.

18 Also, the training that your folks have,
19 perhaps the Metropolitan Police Best Practices
20 might be -- these Best Practices for Nightlife
21 Establishments -- this might be helpful for your
22 training of your security staff, all of them,

1 because we know what's going on in the world and
2 to simply be able to react immediately and know
3 what the procedures are can be of great help and
4 great assistance, as well as things in here that
5 may help in prevention or spotting, so thank you
6 all, good luck, and we're not done here, but
7 we've taken a huge step forward.

8 CHAIRPERSON ANDERSON: Any other?

9 MS. MILLER: I just want to echo Mr.
10 Silverstein's remarks about the Best Practices
11 manual that we were looking at. I'm just curious
12 whether you all have that or not. It seems to me
13 something that should be out there to a lot of
14 the establishments that maybe isn't. Do you?

15 MR. WOODSON: We'll be sure to obtain it.

16 MS. MILLER: You'll be sure to obtain it.
17 You can obtain it here, I think, even from our
18 general counsel.

19 MR. WOODSON: If I may, it could --

20 CHAIRPERSON ANDERSON: I can't hear Mr.
21 Woodson.

22 MR. WOODSON: I'm sorry. It could be

1 that the Board -- with the Board's encouragement
2 MPD could make this more widely known because we
3 didn't know about it.

4 MS. MILLER: Right.

5 MR. WOODSON: And MPD, if this is a best
6 practices manual then it doesn't do anything for
7 anyone but MPD to know about it. Perhaps some
8 encouragement from the Board would be helpful.

9 MR. SILVERSTEIN: Thank you, Mr. Woodson,
10 and I agree with that and we will do so.
11 Nightlife Association has held a recent seminar
12 but applicant that net hasn't been cast widely
13 enough. Also, The Golden Triangle Bid can be
14 very helpful in these matters. But we need to
15 work together, we need this information, and if
16 simply this comes out of the hearing, that in
17 itself is a big step forward and I thank you.

18 CHAIRPERSON ANDERSON: Any other comments
19 from other Board members. Just on behalf of the
20 Board, I would like to thank you for the
21 presentation, thank you for that the parties were
22 able to sit and bring us an offer in compromise

1 that I think addresses the concerns that the
2 residents of the District of Columbia have, as
3 was raised by the Chief of Police, so I
4 appreciate the parties working together to come
5 together with a comprehensive plan, and I wish
6 you good luck, and I hope that when we see you
7 again on the 30th, that there will be no
8 incidents and that this issue will dissipate.

9

10 CHAIRPERSON ANDERSON: The Board is in
11 recess. You can go. All right so, we're in
12 recess.

13 [Whereupon, at 2:25 p.m. the
14 above-entitled matter concluded.]